

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FLASHPOINT TECHNOLOGY, INC.,

Plaintiff,

V.

C.A. No. 08-139-GMS

APITEK, INC., ARGUS CAMERA CO., LLC, BUSHNELL INC., DXG TECHNOLOGY (U.S.A.) INC., DXG TECHNOLOGY CORP., GENERAL ELECTRIC CO., LEICA CAMERA AG, LEICA CAMERA INC., MINOX GMBH, MINOX USA, INC., MUSTEK, INC. USA, MUSTEK, INC., OREGON SCIENTIFIC, INC., POLAROID CORP., RITZ INTERACTIVE, INC., RITZ CAMERA CENTERS, INC., SAKAR INTERNATIONAL, INC., D/B/A DIGITAL CONCEPTS, TABATA U.S.A., INC., D/B/A SEA & SEA, TARGET CORP., VISTAQUEST CORP., VUPOINT SOLUTIONS, INC., WALGREEN CO., and WAL-MART STORES, INC.,

JURY TRIAL DEMANDED

Defendants

PLAINTIFF'S REPLY TO OREGON SCIENTIFIC INC.'S COUNTERCLAIMS

Plaintiff FlashPoint Technology, Inc. (“FlashPoint”) hereby responds to each paragraph of Oregon Scientific Inc.’s (“OSI”) Counterclaims as follows:

COUNTERCLAIMS FOR DECLARATORY JUDGMENT

1. Admitted that these counterclaims purport to be declarations of non-infringement, invalidity and unenforceability of one or more claims of U.S. Patent Nos. 6,118,480, 6,177,956, 6,222,538, 6,223,190, 6,249,316, 6,486,914, and 6,504,575 (the “patents-in-suit”), but otherwise denied.
2. Upon information and belief, admitted.
3. Admitted.
4. Admitted.

5. Admitted.

6. Admitted that venue is proper pursuant to 28 U.S.C. § 1391, but otherwise denied.

7. Admitted that FlashPoint is the owner of the patents-in-suit, and that OSI has infringed one or more claims of the patents-in-suit, but otherwise denied.

8. Admitted that an actual case and controversy exists between FlashPoint and OSI concerning the infringement and validity of one or more claims of the patents-in-suit, but otherwise denied.

**COUNT I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,118,480**

9. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

10. Denied.

11. Denied.

**COUNT II: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,177,956**

12. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

13. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '956 patent.

14. Denied.

**COUNT III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,222,538**

15. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

16. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '538 patent.

17. Denied.

**COUNT IV: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,223,190**

18. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

19. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '190 patent.

20. Denied.

**COUNT V: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,249,316**

21. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

22. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '316 patent.

23. Denied.

**COUNT VI: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,486,914**

24. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

25. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that OSI infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '914 patent.

26. Denied.

**COUNT VII: DECLARATORY JUDGMENT OF NON-INFRINGEMENT,
INVALIDITY, AND UNENFORCEABILITY OF U.S. PATENT NO. 6,504,575**

27. FlashPoint incorporates the replies set forth to Paragraphs 1-6 as if fully set forth herein.

28. Denied.

29. Denied.

PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment as follows against OSI as follows:

- A. That OSI takes nothing by its Counterclaims;
- B. That the Court award Plaintiff costs and attorneys' fees incurred in defending against these Counterclaims; and
- C. Any and all further relief for Plaintiff as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues.

Patrick J. Coughlin
Michael J. Dowd
Ray Arun Mandlekar
James R. Hail
Nathan R. Lindell
COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058

John F. Ward
John W. Olivo, Jr.
David M. Hill
Michael J. Zinna
WARD & OLIVO
380 Madison Avenue
New York, NY 10017
(212) 697-6262

Dated: June 23, 2008

/s/ Evan O. Williford

David J. Margules (I.D. No. 2254)
Evan O. Williford (I.D. No. 4162)
BOUCHARD MARGULES & FRIEDLANDER, P.A.
222 Delaware Avenue, Suite 1400
Wilmington, DE 19801
Telephone: (302) 573-3500
dmargules@bmf-law.com
ewilliford@bmf-law.com
Attorneys for Plaintiff Flashpoint Technology, Inc.

CERTIFICATE OF SERVICE

I, Evan O. Williford, hereby certify that on June 23, 2008, I caused to be electronically filed a true and correct copy of the foregoing document – **Plaintiff's Reply to Oregon Scientific Inc.'s Counterclaims** – with the Clerk of Court using CM/ECF which will send notification of such filing to the following local counsel for defendants:

Richard K. Herrmann, Esquire
Morris James LLP
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
*Attorneys for Defendants Bushnell, Inc.,
and Tabata U.S.A., Inc. d/b/a Sea & Sea
and*

Steven J. Balick, Esquire
Ashby & Geddes
500 Delaware Avenue
Wilmington, DE 19899
*Attorneys for Defendant General Electric
Company*

Richard L. Horwitz, Esquire
David E. Moore, Esquire
Potter Anderson & Corroon LLP
Hercules Plaza
1313 North Market Street
Wilmington, DE 19801
*Attorneys for Defendants Wal-Mart Stores,
and Target Corp and Walgreen Co.*

Daniel V. Folt, Esquire
Matthew Neiderman, Esquire
Aimee M. Czachorowski, Esquire
Duane Morris
1100 North Market Street, Suite 1200
Wilmington, DE 19801
Attorneys for Defendant Aiptek, Inc.

Richard D. Kirk, Esquire
The Bayard Firm
222 Delaware Avenue, Suite 900
Wilmington, DE 19801
*Attorneys for Defendant Sakar
International Inc. d/b/a Digital Concepts*

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
Richards Layton & Finger
One Rodney Square
Wilmington, DE 19801
*Attorneys for Defendants Leica Camera
AG and Leica Camera, Inc. and Mustek,
Inc. USA*

Candice Toll Aaron, Esquire
Saul Ewing LLP
222 Delaware Avenue, Suite 1200
Wilmington, DE 19801
*Attorneys for Defendants Ritz Camera
Centers, Inc. and Ritz Interactive, Inc.*

Collins J. Seitz, Jr., Esquire
Kevin F. Brady, Esquire
Connolly Bove Lodge & Hutz LLP
1007 N. Orange Street
Wilmington, DE 19801
*Attorneys for Defendants Polaroid
Corporation*

Paul E. Crawford, Esquire
Kevin F. Brady, Esquire
Connolly Bove Lodge & Hutz LLP
1007 N. Orange Street
Wilmington, DE 19801
Attorneys for Defendant Oregon Scientific, Inc.

Richard D. Kirk, Esquire
Bayard
222 Delaware Avenue, Suite 900
Wilmington, DE 19801
Attorneys for Defendant Sakar International Inc. d/b/a Digital Concepts and VuPoint Solutions, Inc.

Francis DiGiovanni, Esquire
Chad S.C. Stover, Esquire
Connolly Bove Lodge & Hutz LLP
1007 N. Orange Street
Wilmington, DE 19801
302-658-9141
Attorneys for Defendants DXG Technology [U.S.A.] Inc. and DXG Technology Corp.

David S. Eagle, Esquire
Kelly A. Green, Esquire
Klehr Harrison Harvey Branzburg & Ellers
919 N. Market Street, Suite 1000
Wilmington, DE 19801
Attorneys for Defendant VistaQuest Corp.

I further certify that on June 23, 2008, I caused a copy of the foregoing document to be served on the following defendants by First Class Mail:

Argus Camera Company LLC
1610 Colonial Parkway
Inverness, IL 60067

Minox USA Inc.
438 Willow Brook Road
Plainfield, NH 03781

/s/ Evan O. Williford
David J. Margules (I.D. No. 2254)
Evan O. Williford (I.D. No. 4162)
BOUCHARD MARGULES & FRIEDLANDER, P.A.
222 Delaware Avenue, Suite 1400
Wilmington, DE 19801
Telephone: (302) 573-3500
dmargules@bmf-law.com
ewilliford@bmf-law.com
Attorneys for plaintiff Flashpoint Technology, Inc.